

**No: 5:12-CV-644 BO**

**v.**

## ORDER


Petitioner originally filed a § 2255 motion with this Court on October 21, 2010.

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F.3d 432, 2000 WL 1350583 (9th Cir. 2000) (unpublished). The government agrees that the instant motion should be treated as seeking relief under § 2241. Further, the government has waived any objection to improper venue in this matter. As such and in light of the Fourth Circuit's opinion in *Simmons*, the Court treats petitioner's motion as seeking relief under § 2241 and grants petitioner's motion.

For the foregoing reasons, Defendant's total term of imprisonment is now **REDUCED** to eighty-four (84) months and his term of supervised release is **REDUCED** to a term of four (4) years. Defendant is granted credit for time already served against his sentence. All other terms and conditions of the Court's judgment of November 19, 2009, shall remain in full force and effect.

DONE AND ORDERED, this 19 day of December, 2012.

  
TERRENCE W. BOYLE  
UNITED STATES DISTRICT JUDGE